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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Lei Yu

Serial No.: 09/626,616

Filed: July 27, 2000

For: POLYNUCLEOTIDE ENCODING MU
OPIOID RECEPTOR

Group Art Unit: 1647

Examiner: R. Landsman

Atty. Dkt. No.: INDA:005USD1

CERTIFICATE OF FACSIMILE TRANSMISSION
37 C.F.R. § 1.8

I certify that this correspondence is being transmitted to:
Office of Petitions, Commissioner for Patents, P.O. Box
1450, Alexandria, VA 22313-1450, facsimile number (703)
308-6916 on the date below.

October 24, 2006
Date

Mark B. Wilson

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants request a reconsideration of patent term adjustment under 37 C.F.R. §1.705(d). The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) included with the Notice of Allowance indicates a Patent Term Adjustment of 341 days, and the issued patent, U.S. 7,097,988, indicates a Patent Term Adjustment of 677 days. U.S. patent 7,097,988 is not subject to a terminal disclaimer. Attached is a copy of the Patent Application Information Retrieval (PAIR) system's calculations of Patent Term Adjustment.

On 6 October 2005, the USPTO received an issue fee transmittal form and a Response to the Examiner's Amendment in the Notice of Allowance. A copy of this Response and the return postcard from the USPTO are attached.

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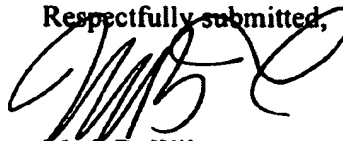
As indicated on the attached copy of the PAIR system's calculations of Patent Term Adjustment, the Response is listed as a "Miscellaneous Incoming Letter", received on 6 October 2005, and an applicant delay of 120 days is shown. The Response, which provides comments regarding the reasons for allowance, should not be listed as an Applicant delay of 120 days. As stated in MPEP§2732, submitting a response to Examiner's reasons for allowance is not a delay by the Applicant. Accordingly, Applicants request that the Patent Term Adjustment should be adjusted by $677+120=797$ days.

The undersigned would also like to thank Kerry Fries at the USPTO for his helpful conversation on 12 October 2006. It is believed that the Response of 6 October 2005 should not have been entered as a "Miscellaneous Incoming Letter" in PAIR.

Applicants respectfully request an adjustment of the patent term from 677 days to 797 days, a collective patent term adjustment of 120 days in light of the above mentioned issues.

Because the error in patent term adjustment was due to the USPTO, Applicants request that the fee be waived. However, if a fee is due (*e.g.*, in accordance with 37 C.F.R. § 1.18(e)), then the Commissioner is hereby authorized to deduct the necessary fee from Fulbright & Jaworski Deposit Account No.: 50-1212/TNDA:005USD1.

Respectfully submitted,



Mark B. Wilson
Attorney for Applicant

FULBRIGHT & JAWORSKI, L.L.P.
600 Congress Ave., Ste. 1900
Austin, Texas 78701
(512) 474-5201

Date: October 24, 2006